IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18857 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREE VARAHI TEXTILES
Versus
THE STATE OF GUJARAT AND OTHERS

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Appearance :
MR PRAKASH K JANI for Petitioner.
MS NISHA PARIKH, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 30/07/2007

ORAL JUDGMENT

1. Rule. Learned AGP, Ms.Nisha Parikh waives service for the respondents.

2. The petitioner has invoked Article 226 of the Constitution with the

grievance that, by impugned order dated 18-6-2007, his application under the provisions of Section 32B of the Bombay Stamp Act, 1958 (for short “the Act”) has been rejected even as he was permitted to deposit 12.5% of the deficit stamp duty instead of 25% of the deficiency and so-called stamp appeal was submitted in time.

3. It could not be gainsaid that the petitioner's application under the provisions of Section 32B of the Act for referring his case to the Chief Controlling Revenue Authority was dismissed only on the ground of delay, which was required to be ignored after his application for deposit of a lesser amount was allowed and he had deposited the requisite amount. Therefore, learned AGP fairly conceded that the application for reference was required to be acted upon by making reference after drawing up the statement of the case and reference was required to be heard and disposed on merits by the Authority.

4. In the above facts, the petition is allowed and impugned order dated 18-6-2007 as well as notice dated 8-6-2007 for recovery of deficit stamp duty are quashed with the direction that pursuant to the application of the petitioner under Section 32B of the Act the Collector shall make a reference of the case in accordance with law for decision on merits by the Chief Controlling Revenue Authority, as expeditiously as practicable. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.Waghela, J.)

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